

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

AMERICAN EXPRESS  
FINANCIAL ADVISORS, INC.,

Plaintiff,

v.

MARY R.DeGON AND  
MATTHEW M. BRUCE,

Defendant.

Civil Action No. \_\_\_\_\_

04 - 10979 RGS

**AFFIDAVIT OF ANTHONY A. SCIBELLI, ESQ.**

I, Anthony A. Scibelli, hereby depose on oath and state as follows:

1. I am a member of the bar in good standing in the Commonwealth of Massachusetts. I am local counsel for the plaintiff American Express Financial Advisors, Inc.

2. Attached hereto as Exhibit A is a true and accurate copy of Rule 10335 of the National Association of Securities Dealers, Inc.'s ("NASD") Code of Arbitration Procedure. Rule 10335 governs temporary and permanent injunctive relief. Attached hereto as Exhibit B is a true and accurate copy of NASD Notice to Members 02-13, providing commentary on the enactment of Rule 10335.

3. Attached hereto as Exhibit C is a true and correct copy of the Statement of Claim filed with the NASD.

4. Attached hereto as Exhibit D is a true and correct copy of *American Express Financial Advisors, Inc. v. Walker*, No. CIV.A. 98-01673, 1998 WL 754620 (Mass. Super. Oct. 28, 1998).

5. Attached hereto as Exhibit E is a true and correct copy of *Merrill Lynch v. Patinkin*, No. 91 C 2324, 1991 WL 83163 (N.D. Ill. May 9, 1991).

6. Attached hereto as Exhibit F is a true and correct copy of *Prudential Insurance Co. of America v. Tracia*, No. 20024369C, 2002 WL 31862713 (Mass. Super. Ct. Nov. 12, 2002) .

Signed under the pains and penalties of perjury this 14<sup>th</sup> day of May 2004.

  
Anthony A. Scibelli, Esq.